

Informational Testimony regarding House Bill 137 Civil Actions – Civil Immunity – Educator Intervention

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The Maryland State Education Association offers this informational testimony on House Bill 137. HB 137 grants civil immunity to administrative, educational, or support staff of any public, private, or parochial school from civil actions claiming personal injury or property damage resulting from an intervention in an altercation between students or other student disturbance. In order to receive the protection of civil immunity, the administrative, educational, or support staff member must: i) be acting in an official capacity, ii) intervene in a reasonably prudent manner, and iii) the intervening action must not constitute gross negligence, willful, wanton, or intentionally tortious conduct. MSEA believes that current statutory protections are sufficient to protect teachers from unwarranted liability in situations where an educator intervenes to restore order.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students so they can pursue their dreams. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

Under extant Maryland law, public school educators, among other school personnel, are permitted to “take reasonable action necessary to prevent violence on school premises or on a school-sponsored trip, including intervening in a fight or physical struggle that takes place in his or her presence, whether the fight is among students or other individuals.”¹ If a suit, claim, or criminal charge is brought by a parent or other claimant on behalf of the combatant against an educator, or other school personnel

¹ MD Code, Education, § 7-307(a)(1).

member, because of the preventative action or intervention then the school board must provide legal counsel for the educator or other school personnel member named in the action.² Alternatively, in the event of a criminal charge if the county board deems it appropriate, they may provide reimbursement for the reasonable expenses of the legal defense.³ Additionally, the county board must save the educator, or other school personnel member, harmless from any award or decree issued against him or her.⁴

Moreover, an employee of a county board of education is not personally liable for damages resulting from a tortious act or omission, so long as the employee was acting within the scope of their employment, and they acted without malice and gross negligence.⁵ MSEA believes these statutory protections are sufficient to protect an educator from unjustified liability where the educator acts reasonably in the scope of their employment to intervene in an altercation or other disturbance with the aim of preventing potential harm to students and other individuals.

² MD Code, Education, § 7-307(c)(1).

³ *Id.*

⁴ MD Code, Education, § 7-307(c)(2).

⁵ MD Code, Courts and Judicial Proceedings, § 5-518(e).